

A RESOLUTION

BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING THE
SETTLEMENT OF THE CLAIM OF
JUANITA DURR IN THE AMOUNT OF
\$6,770.00 AGAINST THE CITY OF
ATLANTA ARISING FROM A STORM
SEWER OVERFLOW**

01-R-1777

WHEREAS, JUANITA DURR has filed a claim against the City of Atlanta seeking damages arising out of a storm water overflow to her property located at 2599 Oldknow Drive, NW; and

WHEREAS, property owned by JUANITA DURR has been damaged due to a storm water and storm sewer overflow caused by inadequate storm water channels and blocked storm drains during heavy rainfall; and

WHEREAS, the City of Atlanta was on notice of said nuisance since 1999 and has been in the process of abating said nuisance; and

WHEREAS, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

WHEREAS, the claimant has asserted damages in the amount of \$6,770.00 and has agreed to accept this sum in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

WHEREAS, the City Attorney has recommended that the claim of JUANITA DURR, be settled for the sum of \$6,770.00.

THEREFORE, BE IT RESOLVED that the Council of the City of Atlanta, Georgia that \$6,770.00 be paid by the City of Atlanta to JUANITA DURR, in satisfaction of any and all claims she may have stemming from damages sustained to her property on or about April 4, 2001, at 2599 Oldknow Drive, NW, and that the City Attorney prepare appropriate releases.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby authorized to pay the above mentioned sum from account number 1A01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0569

Date: October 16, 2001

Claimant /Victim JUANITA DURR
BY: (Atty) (Ins. Co.) _____
Address: 2599 Oldknow Drive, NW, Atlanta, Georgia 303186
Subrogation: _____ Claim for Property damage \$ 6,770.00 Bodily Injury \$ _____
Date of Notice: 8/30/01 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 _____ X Ante Litem (6 Mo.) _____ X
Date of Occurrence 4/4/01 Place: 2599 Oldknow Drive, NW
Department PUBLIC WORKS Division Technical Services - Infrastructure
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that she sustained damages when her basement was flooded due to storm water runoff and storm drain overflow. An investigation determined that in 1999, the City was placed on notice of said storm water problem in the Centerhill area, which includes Oldknow Drive, NW, and a storm drainage improvement project has been approved and is already underway to remedy the problem.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others X Written _____ Oral X
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other X
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

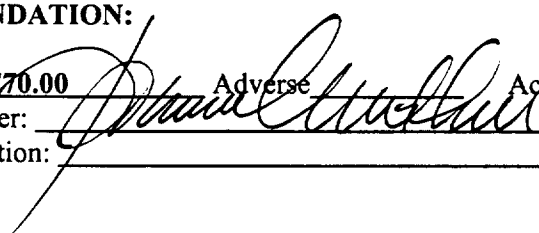
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____
Improper Notice _____ More than Six Months _____ Other _____ Damages reasonable _____
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 6,770.00 Adverse _____ Account charged: 1A01 X 2J01 _____ 2H01 _____
Claims Manager:  Concur/date 10-18-01
Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
CLERK OF COUNCIL
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 8/30/01 AUG 30 2001

BURNS
RECEIVED
08/11/01

DEPUTY MUNICIPAL CLERK

Foris Webb spoke with city lawyer D Mitchell who approved Documentation

MUNICIPAL CLERK

Dear Clerk of Council: ENTERED - 9-14-01 - SB
01L0569 - GWEN BURNS

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 3225.00 property and/or \$ NA bodily injury for which I contend the City is liable.

1. Date of incident: April/2001, Nov 2000, Oct 1999 2. Police called: NA called back 8/31/01
(month/day/year) Yes No
3. Location of incident: 2599 Oldknow Dr NW Atl 30318 city/No
4. Name of your insurance company: State Farm Policy No. 0425-0301-27
did not know
5. State what and how incident occurred: Rain water comes from city street down a Robert Street on to Mrs Duer property and into her basement which is flooded.
6. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
7. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).
- Your vehicle: NA
(make) (year) (tag number) (driver's name)
- City vehicle: NA
(make) (City driver's name) (department/bureau)
8. Witness: Mrs Lee Oldknow ~~XXXXXX~~ Dr (4) 799-1065
(name) (address) (telephone number)
9. The acknowledgement of this claim in no way waives the Governmental immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).
10. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Xmrs Luanita Duer
(claimant's name)

2599 Oldknow Dr
(address)

claim was documented
Per the request of Mrs Duer NW Atlanta GA 30318
By Deputy Clerk Foris Webb
(city and state)

and witnessed by Larnae NA (4) 799-7301
BeKS (work number) (home number)

DEPUTY MUNICIPAL CLERK

witness